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April 15, 1998

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APR 15 1998
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: In the Matter of Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996
CC Docket No. 96-128
Notice of Ex Parte Communication

Dear Ms. Roman Salas:

On behalf of Mobile Telecommunication Technologies Corp. ("Mtel"), this notice is submitted in accordance with Section 1.1206(a)(2) of the Commission's rules, with the original and one copy being submitted to the Commission's Secretary.

On this date, John N. Palmer, James Free and Thomas Gutierrez all representing Mtel, met with Chairman William Kennard and his legal assistant, Tom Power, and made a permissible oral ex parte presentation concerning the above docket.

At the meeting, argument was presented consistent with Mtel's argument in its Petition for Reconsideration and Comments filed in the captioned proceeding, and consistent with the enclosed discussion outline. No additional arguments or issues were presented.

Kindly contact the undersigned, should you or your staff have any questions in regard to this matter.

Very truly yours,

Thomas Gutierrez

No. of Copies rec'd 0+1
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Enclosure
cc: Tom Power, Esq.
TG:jmm

PRESENTATION BY MOBILE TELECOMMUNICATION TECHNOLOGIES CORP

TO THE OFFICE OF CHAIRMAN KENNARD IN THE

MATTER OF IMPLEMENTATION OF THE PAY TELEPHONE RECLASSIFICATION

AND COMPENSATION PROVISIONS OF THE TELECOMMUNICATIONS

ACT OF 1996

CC DOCKET NO. 96-128

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Mobile Telecommunication Technologies Corp. (Mtel) Is:

- the nation's foremost provider of nationwide paging service.
- the parent company of SkyTel, the first entity to build a nationwide paging system.
- the only narrowband carrier to receive a Pioneer's Preference for exceptional innovation.
- a carrier with more than one million domestic nationwide subscribers.
- the majority of Mtel's customers are businesspersons who travel extensively and utilize pay telephones in conjunction with Mtel's service.

Overview

- The issue of calling party pays must be revisited.
- The Bureau's call blocking waiver precludes carriers from recouping pay telephone expenses.
- The Commission's "market rate" of 28.4 cents is unjust and unreasonable.

The Issue of Calling Party Pays Must Be Revisited

- A true "market" approach is simply not applicable where the caller cares not about the "market rate" that is borne by some other party.
- The payphone market is not competitive because the pay telephone industry currently is one based on locational monopolies.
- The only true market-based surrogate for 800 subscriber and access code calls is a calling party pays mechanism.
- The market relationships and dynamics which underlie a market based compensation approach rest upon the ability of a caller -- not a carrier or 800 subscriber -- to impose market discipline on PSPs by either agreeing or refusing to pay the PSPs price for the use of the phone at the time the call is made.
- A "carrier pays" system is more burdensome and costly than a caller pays system and imposes significant burdens on virtually every participant in the payphone market other than the caller.
- The FCC's basic assumption about a carrier's "pass through" ability has no merit when the customer that incurs the charge cannot be timely located and billed.

Call Blocking

- The Common Carrier Bureau's (the "Bureau") grant of a waiver of the PSP requirement to provide data sufficient to permit call blocking under the Commission's carrier pays compensation scheme is internally inconsistent and arbitrary and capricious.

- The Commission continues to rely on the viability of call blocking as the basis for its market-based approach to payphone compensation while at the same time effectively precluding IXCs from offering call blocking by denying them the technical information necessary for implementation.

- Without the ability to refuse calls, paging carriers will also lack the competitive leverage as a means for negotiating alternative compensation arrangements.

- Call blocking is not a viable business option for most 800 subscribers because their businesses are dependent upon customers being able to access their number from all payphones.

- As the DC Circuit observed, "blocking is hardly an ideal option for the IXCs, for it is not only expensive to implement. . .but its use will invariably will result in a mutual loss of business for both PSPs and the IXCs. 117 F.3d 555 at 564. Call blocking severs a key revenue stream, limiting business options and leaving customers disgruntled.

- As the nation's supply of 800 numbers began to erode, the FCC's Common Carrier Bureau recommended that paging carriers employ "PIN code" 1-800 service, rather that issuing individual 800 numbers to each customer. The problem with PIN codes is that it is impossible to block and/or track payphone calls to individual paging customers, since they are sharing one phone number.

The Commission's "Market Rate" of 28.4 Cents is Unjust an Unreasonable

- There is no market rate for pay telephone service.

- The Commission's continued reliance on $0.35 (which was the highest rate among the deregulated payphone markets reviewed by the Commission) as the market rate for local coin service is arbitrary.

- Payphone provider costs were vastly overstated. Data from SBC indicate that SBC's total cost for a coin call amounts to $0.162 - less than half of the $0.40 figure proffered by the Independent Payphone Providers and relied upon by the Commission in setting the default per-call compensation rate. Further, Sprint estimates that a call based approach would yield a per-call compensation rate in the range of six cents per call.

- Payphone compensation for subscriber 800 and access code calls should be cost-based--not market-based--and should be determined by the cost to payphone providers of originating such calls or the cost of a coin call minus coin costs.

- Even with as little as two payphone calls per day, the FCC's default rate will add nearly $20 per month to a paging customer's bill, with absolutely no added services or benefits for the consumer from the paging company.

- Should the Commission maintain its "carrier pays" approach, the Commission must revise its compensation arrangements to reflect a measured rate that accounts for varying call lengths.